

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

DAVID DWAYNE CASSADY, )  
Plaintiff, )  
v. ) CV 109-128  
VICTOR L. WALKER, Warden, et al., )  
Defendants. )

## ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed (doc. no. 48). Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Defendants' motion for summary judgment is **GRANTED IN PART** and **DENIED IN PART**. (Doc. no. 35.) In particular, their motion is granted as to Plaintiff's claims against Defendants Garnett and Scott, and it is denied as to the claims against Defendants Walker, Wilkes, and Evans. Accordingly, the case shall proceed to trial only on Plaintiff's Eighth Amendment claims against Defendants Walker, Wilkes, and Evans for acting with deliberate indifference in exposing him to levels of environmental tobacco smoke that posed an unreasonable risk of serious damage to his future health.

SO ORDERED this 15<sup>th</sup> day of March, 2012, at Augusta, Georgia.

HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA